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DEPARTMENT OF EDUCATION

34 CFR Chapter III

[ED-2016-OSERS-0024]

Final priority and requirements--Technical Assistance on State Data Collection Program--Targeted and Intensive Technical Assistance to States on the Analysis and Use of Formative and Summative Assessment Data to Support Implementation of States' Identified Measurable Result(s).

[CFDA Number: 84.373A.]

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Final priority and requirements.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority and requirements under the Technical Assistance on State Data Collection program. The Assistant Secretary may use this priority for competitions in fiscal year (FY) 2016 and later years. We take this action to focus attention on an identified need to address national, State, and local assessment issues related to students with disabilities, including students with disabilities who are also English Learners (ELs).

DATES: This priority and these requirements are effective  
[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE  
FEDERAL REGISTER].

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If you use a telecommunications device for the deaf  
(TDD) or a text telephone (TTY), call the Federal Relay  
Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the Technical  
Assistance on State Data Collection program is to improve  
the capacity of States to meet the Individuals with  
Disabilities Education Act (IDEA) data collection and  
reporting requirements. Funding for this program is  
authorized under section 611(c)(1) of IDEA, which gives the  
Secretary the authority to reserve funds appropriated under  
Part B of the IDEA to provide technical assistance  
activities authorized under section 616(i) of IDEA.  
Section 616(i) of IDEA requires the Secretary to review the  
data collection and analysis capacity of States to ensure  
that data and information determined necessary for

implementation of IDEA section 616 are collected, analyzed, and accurately reported to the Secretary. It also requires the Secretary to provide technical assistance, where needed, to improve the capacity of States to meet the data collection requirements under IDEA Parts B and C, which include the data collection and reporting requirements in sections 616 and 618 of IDEA.

Program Authority: 20 U.S.C. 1411(c) and 1416(i).

Applicable Program Regulations: 34 CFR 300.702.

We published a notice of proposed priority and requirements for this program in the Federal Register on March 23, 2016 (81 FR 15491). That notice contained background information and our reasons for proposing the particular priority and requirements.

Public Comment: In response to our invitation in the notice of proposed priority and requirements, we did not receive any comments on the proposed priority and requirements. However, as a result of our further review of the proposed priority and requirements since publication of the notice of proposed priority and requirements, we have made changes as follows:

Analysis of Comments and Changes:

Comment: None.

Discussion: As a result of our further review, we realized

that a few items in the priority could benefit from further clarification. First, we have changed the title of the priority to be more descriptive. Second, we clarified that references to "assessment" in the priority include both formative and summative assessments. Third, to clarify how we intend for applicants to address logic models, we deleted some references to "logic model" and instead included a note directing the reader to additional information on the meaning of the term.

Changes: We have changed the title of the priority to: "Targeted and Intensive Technical Assistance to States on the Analysis and Use of Formative and Summative Assessment Data to Support Implementation of States' Identified Measurable Result(s)." We have modified, as appropriate, references to assessment describing "formative and summative" assessments, deleted references to "logic model" and inserted a note directing the reader to additional information on the meaning of the term, and made other technical changes.

FINAL PRIORITY:

Targeted and Intensive Technical Assistance to States on the Analysis and Use of Formative and Summative Assessment Data to Support Implementation of States' Identified Measurable Result(s).

Priority:

The purpose of this priority is to (1) assist States in analyzing and using assessment data to better achieve the States' Identified Measurable Result(s) (SIMR) as described in their IDEA Part B State Systemic Improvement Plans (SSIPs), and (2) assist State efforts to provide technical assistance (TA) to local educational agencies (LEAs) in analyzing and using State and districtwide assessment data to better achieve the SIMR, as appropriate.

The Center must achieve, at a minimum, the following expected outcomes:

(a) Increased capacity of State educational agency (SEA) personnel to analyze and use assessment data to better achieve the SIMR described in the IDEA Part B SSIP, including using assessment data to evaluate and improve educational policy, inform instructional programs, and improve instruction for students with disabilities; and

(b) Increased capacity of SEA personnel to provide TA to LEAs in the analysis and use of State and districtwide assessment data to improve instruction of students with disabilities and better achieve the SIMR.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority

as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

#### FINAL REQUIREMENTS

The Assistant Secretary establishes the following requirements for this program. We may apply these requirements in any year in which this program is in effect.

#### Requirements:

Applications that:

(a) Demonstrate, in the narrative section of the application under "Significance of the Project," how the proposed project will--

(1) Address the needs of SEAs and LEAs to analyze and use formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities. To meet this requirement the applicant must--

(i) Present applicable national, State, and local data demonstrating the needs of SEAs and LEAs to analyze and use formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Demonstrate knowledge of current educational issues and policy initiatives related to analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(iii) Describe the current level of implementation related to analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities.

(2) Improve the analysis and use of formative and

summative assessment data to improve teaching and learning for students with disabilities.

(b) Demonstrate, in the narrative section of the application under "Quality of the Project Services," how the proposed project will--

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will--

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients (e.g., by creating materials in formats and languages accessible to the stakeholders served by the intended recipients);

(2) Achieve its goals, objectives, and intended outcomes. To meet this requirement, the applicant must provide--

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts,

assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: While section 77.1(c) of the Education Department General Administrative Regulations (EDGAR) contains a definition for "logic model," the Office of Special Education Programs (OSEP), based upon its experience in this area, has been using the above definition as standard language for the OSEP Technical Assistance and Dissemination (TA&D) program priorities. OSEP's definition establishes a difference between logic models and conceptual frameworks whereas 34 CFR 77.1(c) considers the model to be one and the same. The following Web sites provide more information on logic models:

[www.osepideasthatwork.org/logicModel](http://www.osepideasthatwork.org/logicModel) and  
[www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework](http://www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework).

(4) Be based on current research and make use of practices supported by evidence. To meet this requirement, the applicant must describe--

(i) The current research on the effectiveness of analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and

learning for students with disabilities; and

(ii) How the proposed project will incorporate current practices supported by evidence in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe--

(i) How it proposes to identify or develop the knowledge base on analyzing and using formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(ii) Its proposed approach to universal, general TA,<sup>1</sup> which must identify the intended recipients of the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,<sup>2</sup> which must identify--

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<sup>1</sup> "Universal, general TA" means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA center staff and including one-time, invited or offered conference presentations by TA center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA center's Web site by independent users. Brief communications by TA center staff with recipients, either by telephone or email, are also considered universal, general TA.

<sup>2</sup> "Targeted, specialized TA" means TA services based on needs common to multiple recipients and not extensively individualized. A relationship

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,<sup>3</sup> which must identify--

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEA and LEA personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the SEA and LEA levels;

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is established between the TA recipient and one or more TA center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

<sup>3</sup> "Intensive, sustained TA" means TA services often provided on-site and requiring a stable, ongoing relationship between the TA center staff and the TA recipient. "TA services" are defined as negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policy, program, practice, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

(C) Its proposed plan for assisting SEAs (and LEAs, in conjunction with SEAs) to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with appropriate levels of the education system (e.g., SEAs, regional TA providers, LEAs, schools, and families) to ensure that there is communication between each level and that there are systems in place to support the collection, analysis, and use of formative and summative assessment data in instructional decision-making to improve teaching and learning for students with disabilities;

(E) Its proposed plan for collaborating and coordinating with Department-funded TA investments and the Institute of Education Sciences (IES) research and development investments, where appropriate, in order to align complementary work and jointly develop and implement products and services to meet the purposes of this priority;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe--

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under "Quality of the Evaluation Plan," include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: measures of progress in implementation, including the extent to which the project's products and services have reached its target population; and measures of intended outcomes or results of the project's activities in order to assess the effectiveness of those activities.

In designing the evaluation plan, the project must--

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the Center to Improve Project Performance (CIPP),<sup>4</sup> the project director,

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<sup>4</sup> The major tasks of CIPP are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (i.e., those awarded \$500,000 or more per year and required to participate in the 3+2 process) in OSEP's Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIPP are expected to enhance individual project evaluation plans by providing expert and unbiased technical assistance in designing the evaluations with due consideration of the project's

and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (e.g., preparing evaluation questions about significant program processes and outcomes, developing quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and progress toward achieving intended outcomes, selecting respondent samples if appropriate, designing instruments or identifying data sources, and identifying analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly--

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and

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budget. CIPP does not function as a third-party evaluator.

includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project's intensive review for continued funding described under the heading Fourth and Fifth Years of the Project; and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIPP, as needed, to specify the performance measures to be addressed in the project's Annual Performance Report;

(2) Cooperate with CIPP staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under "Adequacy of Project Resources," how--

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants,

and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project's intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under "Quality of the Management Plan," how--

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe--

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated to the project and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must--

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project. A logic model communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project.

(2) Include, in Appendix A, a conceptual framework for the project;

(3) Include, in Appendix A, person-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and a half day project directors' meeting in Washington, DC, during each year of the project period;

(iii) Three trips annually to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with OSEP.

Note: With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period; and

(6) Maintain a Web site that meets government or industry-recognized standards for accessibility.

Fourth and Fifth Years of the Project:

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as--

(a) The recommendation of a review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The timeliness and effectiveness with which all requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority and these requirements, we invite applications through a notice in the Federal Register.

## Executive Orders 12866 and 13563

### Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of

compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority and requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental

functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the TA projects have been well-established over the years in that other TA projects have been completed successfully. The priority announced in this notice will improve the capacity of States to meet the IDEA data collection and reporting requirements, including (1) increased capacity of SEA personnel to analyze and use assessment data to better achieve the SIMR described in the IDEA Part B SSIP through means such as the use of formative and summative assessment data to evaluate and improve educational policy, inform instructional programs and improve instruction for students with disabilities; and (2) increased capacity of SEA personnel to provide TA to LEAs in the analysis and use of State and districtwide assessment data to improve instruction of students with disabilities and better achieve the SIMR.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

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Dated: July 18, 2016

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Sue Swenson,  
Acting Assistant Secretary for  
Special Education and  
Rehabilitative Services.

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